

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES

<hr/> The Secretary, United States)	
Department of Housing and Urban)	
Development, on behalf of the National Fair)	
Housing Alliance,)	
)	
Charging Party,)	
)	FHEO No. 09-09-0082-8
v.)	
)	
David Johnson,)	
)	
Respondent.)	
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CHARGE OF DISCRIMINATION

I. **JURISDICTION**

On October 21, 2008, the National Fair Housing Alliance (“Complainant” or “NFHA”) filed a timely complaint with the United States Department of Housing and Urban Development (“HUD” or the “Department”), alleging that Respondent¹ violated the Fair Housing Act as amended in 1988, 42 U.S.C. Section 3601 *et seq.* (the “Act”), by printing, publishing, or causing to be made, printed, or published an advertisement online with respect to the rental of a dwelling that indicates a preference, limitation, or discrimination based on familial status, or an intention to make any such preference, limitation, or discrimination in violation of 42 U.S.C. § 3604(c).

On December 16, 2009, Complainant amended the complaint to specifically name Respondent David Johnson, the real estate broker who posted the advertisement, and Kelly R. Lee, the identified owner of the subject property. The Department attempted to serve a notice of the amended complaint on Kelly R. Lee by certified mail, but was unsuccessful.² On January 19, 2011, Complainant amended the complaint to remove Kelly R. Lee.

¹ Complainant identified Respondent as “hous-456791927@craigslist.org, Carnegie & W Horizon Ridge, Las Vegas, NV” in the October 21, 2008 complaint.

² Notwithstanding the Department’s initial telephone contact with Ms. Lee, the Department’s subsequent efforts to locate and serve Ms. Lee were unsuccessful.

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination (“Charge”) on behalf of an aggrieved person following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. §§ 3610(g)(1) and (2). The Secretary of HUD has delegated to the General Counsel (24 C.F.R. §§ 103.400(a)(2)(i) and 103.405), the authority to issue such a Charge of Discrimination. The General Counsel has re-delegated to the Regional Counsel the authority to issue such a Charge (74 Fed. Reg. 62803), following a determination of reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity, or his or her designee.

The Office of Fair Housing and Equal Opportunity Region IX Director, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case based on familial status, and has authorized and directed the issuance of this Charge of Discrimination. *See* 42 U.S.C. § 3610(g)(2). HUD’s efforts to conciliate the complaint were unsuccessful. *See* 42 U.S.C. § 3610(b).

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on HUD’s investigation of the allegations contained in the aforementioned complaint and Determination of Reasonable Cause, Respondent David Johnson is charged with discriminating against Complainant National Fair Housing Alliance, an aggrieved person, as defined by 42 U.S.C. § 3602(i), based on familial status in violation of 42 U.S.C. § 3604(c) of the Act as follows:

1. It shall be unlawful to make, print, or publish, or cause to be made, printed or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination. 42 U.S.C. § 3604(c). *See also* 24 C.F.R. § 100.75.
2. At all times relevant to this Charge, Complainant NFHA was a not-for-profit consortium of more than two hundred twenty (220) private, non-profit fair housing organizations, state and local civil rights agencies, and individuals from throughout the United States. NFHA works to eliminate housing discrimination and to ensure equal housing opportunity for all people through advocacy, enforcement, education and outreach, membership services, and public policy initiatives. As part of NFHA’s mission to eliminate housing discrimination, NFHA conducts investigations into discriminatory advertising in housing.
3. At all times relevant to this Charge, Respondent David Johnson was a licensed real estate broker for Refined Rentals, LLC, in Las Vegas, Nevada.

4. At all times relevant to this Charge, Kelly R. Lee (“Property Owner” or “Lee”) owned the property located at 2521 Breezy Cove Avenue, Henderson, Nevada 89052. (“Subject Property”).
5. The Subject Property is a two-story, single family house with five bedrooms and four bathrooms. The Subject Property is a dwelling, as defined within the Act.
6. On or about October 22, 2007, Respondent Johnson posted the following advertisement (“Subject Advertisement”) for the Subject Property on www.craigslist.org, on behalf of Property Owner Lee: “Furnished 4000+ fully furnished house to share for 3-4 adults on a 1 year lease. House has recently been a vacation rental and has everything needed. Available for tenancy within 3 days of application and approval. Call David for showing at 702-334-2900.” The Subject Advertisement indicated the location of the Subject Property as “Carnegie & W. Horizon Ridge [sic].” The Subject Advertisement indicated that interested persons should “[r]eple to: hous-456791927@craigslist.org.”
7. At all times relevant to this Charge, www.craigslist.org was a largely free, for-profit online community of local classifieds and forums featuring, among other things, housing, jobs, goods, services, local activities and advice. As of November 29, 2010, www.craigslist.org was used by more than 50 million people in the United States alone, and received more than 20 billion page views per month.
8. On or about October 31, 2007, Complainant discovered the Subject Advertisement on www.craigslist.org; Complainant NFHA noted that the Subject Advertisement for “apts/housing for rent” contained the facially discriminatory preference “house to share for 3-4 adults.” (emphasis in original omitted).
9. At all times relevant to this Charge, Respondent Johnson’s telephone number was the telephone contact number listed in the Subject Advertisement.
10. On or about December 16, 2008, Respondent admitted that he posted the Subject Advertisement on www.craigslist.org, and that “the wording of the ad may be an issue.”
11. On or about November 24, 2009, Lee confirmed her ownership of the Subject Property since 2003, and stated that she “had David Johnson place an ad.” Lee stated she “told David Johnson to try to rent the property to some teachers” because she knew that there was a shortage of housing for teachers in Las Vegas.
12. By printing, publishing, and causing to be made, printed, and published an advertisement with respect to the rental of a dwelling that indicates a preference, limitation, or discrimination based on familial status, or an intention to make any such preference, limitation, or discrimination, Respondent David Johnson discriminated against Complainant NFHA in violation of 42 U.S.C. § 3604(c).

13. As a result of Respondent's discriminatory conduct, Complainant NFHA has suffered damages, including economic loss due to diversion of its resources: 1) to investigate and determine the existence, origin, nature and extent of Respondent's discriminatory housing practices; 2) to educate and perform outreach to counteract the effects of Respondent's discrimination; and 3) to protect the fair housing rights of Complainant's members, associates and constituents from Respondent's discrimination. This diversion of Complainant's resources and Respondent's discriminatory housing practice has frustrated NFHA's mission to eliminate housing discrimination and to ensure equal housing opportunity for all people.

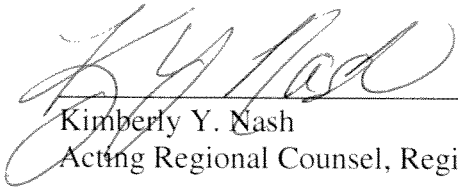
III. CONCLUSION

WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A) of the Act, hereby charges Respondent with engaging in a discriminatory housing practice in violation of Section 3604(c) of the Act, and prays that an order be issued that:

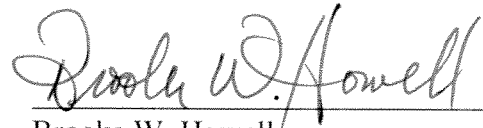
1. Declares that the discriminatory housing practice of the Respondent, as set forth above, violates the Fair Housing Act, as amended, 42 U.S.C. §3601 *et seq.*;
2. Enjoins Respondent, his agents, employees and successors, and all other persons in active concert or participation with him from discriminating because of familial status against any person in any aspect of the rental or sale of a dwelling;
3. Awards such damages as will fully compensate Complainant NFHA, including but not limited to compensatory damages and any and all other damages that result from the frustration of Complainant's organizational mission and diversion of its resources: 1) to investigate and determine the existence, origin, nature and extent of Respondent's discriminatory housing practices; 2) to educate and perform outreach to counteract the effects of Respondent's discrimination; and 3) to protect the fair housing rights of Complainant's members, associates and constituents from Respondent's discrimination pursuant to 42 U.S.C. § 3612(g)(3); and
4. Assesses a civil penalty against Respondent for each violation of the Act that Respondent has committed; pursuant to 42 U.S.C. § 3612(g)(3).

The Secretary of HUD further prays for additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,



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Dated: February 25, 2011